

UNITED STATES DISTRICT COURT
FOR THE MIDDLE DISTRICT OF PENNSYLVANIA

NEW PRIME, INC.	:	
2740 Mayfair Avenue	:	
Springfield, MO 65803	:	
Plaintiff,	:	
v.	:	NO. 1:18-cv-00226-CCC
	:	
TRANSERVICE LOGISTICS, INC.	:	
5 Dakota Drive	:	
New Hyde Park, NY 11042	:	
	:	
ESTATE OF ALFRED D. KINNICK,	:	
DECEASED	:	
1015 Washington College Station Road	:	
Limestone, TN 37681	:	
	:	
and	:	
	:	
FEDEX GROUND PACKAGE	:	
SYSTEM, INC.	:	
1000 FedEx Drive	:	
Moon Township, PA 15108	:	
	:	
OMG TRUCKING CORP.	:	
38 Verona Parkway	:	
Lindenhurst, NY 11757	:	
	:	
SHOTA MANVELIDZE	:	
12 Francis Avenue, Apt. 2B	:	
Nyack, NY 10960	:	
	:	
and	:	
	:	
OLD DOMINION FREIGHT LINE	:	
500 Old Dominion Way	:	
Thomasville, NC 27360	:	
	:	
DANNY FANTOM	:	
58 Jamestown Road	:	
Shippensburg, PA 17257	:	
	:	
DONNIE WILLIAMS	:	
264 Blevins Road	:	
Rogersville, TN 37857	:	

and :
:
LANDES TRUCKING :
4366 Mount Pleasure Street :
North Canton, OH 44720 :
:
DANIEL MOLLENKOPF :
407 Golf Avenue :
Ellwood City, PA 16117 :
:
and :
:
TOTAL TRANSPORTATION :
OF MISSISSIPPI LLC :
125 Riverview Drive :
Richland, MS 39218 :
:
CLARENCE HERMAN :
387 Calloway Road :
Philadelphia, TN 37846 :

AMENDED COMPLAINT

Plaintiff, New Prime, Inc., (hereinafter “Plaintiff”) by its counsel, Ryan, Brown, McDonnell, Berger & Gibbons, P.C., hereby files this Amended Complaint in accordance with F.R.C.P. 15, in the above-captioned matter as follows:

PARTIES

1. Plaintiff, New Prime, Inc., is a business incorporated in the State of Nebraska with a principal place of business located in Springfield, Missouri.

2. At all relevant times, Plaintiff was the registered owner of a silver 2016 Freightliner (VIN: 3AJJGLD58GSHC3025) bearing Missouri license plate 31AP8G, and a Wabash trailer (VIN: 1JJV532B6FL840211; also identified as New Prime TRL#153627).

3. The aforementioned vehicle was operated under the authority of Plaintiff, and hauling a load of seafood at the time of a multi-vehicle accident which occurred on February 13, 2016, on I-78 westbound in Bethel Township, Lebanon County, Pennsylvania.

4. Defendant, Old Dominion Freight Line (“Old Dominion”) is a corporation or other business entity incorporated under the laws of Delaware with its principal place of business in Thomasville, North Carolina.

5. At all relevant times, Defendant Old Dominion acted by itself, and by and through its drivers, agents, servants and/or employees.

6. At all relevant times, Defendant Old Dominion was the owner or lessee of a white 2016 Freightliner (VIN: 1FUBGDD55GLG20010), bearing North Carolina license plate MR2619.

7. The aforementioned vehicle was operated under the authority of Defendant Old Dominion.

8. Defendant, Danny Fantom, is an adult person and citizen of the Commonwealth of Pennsylvania.

9. At all relevant times, Defendant Fantom was the agent, servant and/or employee of Defendant Old Dominion.

10. At all relevant times, Defendant Fantom and/or another agent, servant and/or employee of Defendant Old Dominion, operated the aforementioned vehicle, and was acting within the course and scope of his/her/their employment with Defendant Old Dominion.

11. At all relevant times, Defendant Old Dominion was the owner or lessee of a tractor-trailer unit including a green 2016 Freightliner sleeper cab (VIN: 1FUBGK057GLGV9798), bearing North Carolina license plate MN6259, and hauling double Wabash trailers.

12. The aforementioned vehicle was operated under the authority of Defendant Old Dominion.

13. Defendant, Donnie Williams, is an adult person and citizen of the State of Tennessee.

14. At all relevant times, Defendant Williams was the agent, servant and/or employee of Defendant Old Dominion.

15. At all relevant times, Defendant Williams and/or another agent, servant and/or employee of Defendant Old Dominion, operated the aforementioned vehicle, and was acting within the course and scope of his/her/their employment with Defendant Old Dominion.

16. Defendant, Transervice Logistics, Inc. (“Transervice”) is a corporation or other business entity incorporated under the laws of the State of New York with its principal place of business in New Hyde Park, New York.

17. At all relevant times, Defendant Transervice acted by itself and by and through its drivers, agents, servants and/or employees.

18. At all relevant times, Defendant Transervice was the owner or lessee of a tractor-trailer unit including a white 2016 Freightliner sleeper cab (VIN: 1FUJGLD57GLHR3552), bearing Illinois license plate 2383128, and hauling a Wabash trailer.

19. At all relevant times, the aforementioned tractor-trailer was operated under the authority of Defendant Transervice.

20. At all relevant times, the operator of the aforementioned tractor-trailer, ALFRED D. KINNICK (now deceased) was an agent, servant and/or employee of Defendant Transervice, and was acting within the course and scope of his employment with Defendant Transervice.

21. Defendant, FedEx Ground Package System, Inc. (“FedEx”) is a corporation or other business entity incorporated under the laws of the State of Delaware, with its principal place of business in Moon Township, Pennsylvania.

22. Defendant, OMG Trucking Corp. (“OMG”), is a corporation or other business entity incorporated under the laws of the State of New York, with its principal place of business in Lindenhurst, New York.

23. At all relevant times, the aforementioned tractor-trailer was operated under the authority of Defendant FedEx and/or Defendant OMG, pursuant to a contractor operating agreement.

24. At all relevant times, Defendants FedEx and OMG acted by themselves and by and through their drivers, agents, servants and/or employees.

25. At all relevant times, Defendant FedEx and/or Defendant OMG was the owner or lessee of a tractor-trailer unit including double Wabash trailers being hauled by a white 2009 Volvo sleeper cab (VIN: 4V4NC9TH59N279615), bearing Indiana license plate 900014.

26. Defendant, Shota Manvelidze is an adult person and citizen of the State of New York.

27. At all relevant times, Defendant Manvelidze was the agent, servant and/or employee of Defendant FedEx.

28. At all relevant times, Defendant Manvelidze was the employee of Defendant OMG.

29. At all relevant times, Defendant Manvelidze operated the aforementioned tractor-trailer and was acting within the course and scope of his employment with Defendant OMG and Defendant FedEx.

30. At all relevant times, Defendant Manvelidze operated the aforementioned tractor-trailer in furtherance of the business of Defendant FedEx.

31. Defendant, Landes Trucking, LLC (“Landes”) is a limited liability corporation or other business entity incorporated under the laws of Delaware with its principal place of business in Thomasville, North Carolina.

32. At all relevant times, Defendant Landes acted by itself and by and through its drivers, agents, servants and/or employees.

33. At all relevant times, Defendant Landes was the owner or lessee of a tractor-trailer unit including a white 2013 Freightliner sleeper cab (VIN: 4V4NC9EH2DN136224), bearing Illinois license plate P814492, and hauling a silver tanker.

34. At all relevant times, the aforementioned tractor-trailer was operated under the authority of Defendant Landes.

35. At all relevant times, the operator of the aforementioned tractor-trailer was an agent, servant and/or employee of Defendant Landes, and was acting within the course and scope of his employment with Defendant Landes.

36. Defendant, Total Transportation of Mississippi (“Total Transportation”) is a limited liability corporation or other business entity incorporated under the laws of the State of Mississippi, with its principal place of business in Richland, Mississippi.

37. At all relevant times, Defendant Total Transportation acted by itself and by and through its drivers, agents, servants and/or employees.

38. At all relevant times, Defendant Total Transportation owned or leased a tractor-trailer unit including a red 2015 Freightliner (VIN: 3AKJGLD50FSGH7513), bearing Oklahoma license plate VQ971, and hauling a trailer.

39. At all relevant times, said tractor trailer was operated under the authority of Defendant Total Transportation.

40. Defendant, Clarence Herman, is an adult person and citizen of the State of Tennessee.

41. At all relevant times, Defendant Herman was the agent, servant and/or employee of Defendant Total Transportation.

42. At all relevant times, Defendant Herman operated the aforementioned tractor-trailer, and was acting within the course and scope of his employment with Defendant Total Transportation.

JURISDICTION AND VENUE

43. The Court has proper jurisdiction over this case pursuant to 28 U.S.C. § 1332 because complete diversity of citizenship exists between Plaintiff and Defendants, and the amount in controversy is in excess of Seventy-Five Thousand Dollars (\$75,000), exclusive of interest and costs.

44. Venue is proper in the United States District Court for the Middle District of Pennsylvania pursuant to 28 U.S.C. § 1391 because a substantial part of the events and/or omissions giving rise to this claim occurred in Lebanon County, Pennsylvania.

FACTS

45. The allegations set forth above are incorporated by reference as if set forth in full herein

46. On or about February 13, 2016, at approximately 9:30 a.m., all of the vehicles identified herein were traveling in the westbound lanes of Interstate 78 (I-78) at or near mile marker 7.4 in Bethel Township, Lebanon County, Pennsylvania.

47. On or about the above date and time, Defendant Old Dominion, through the negligent actions of its driver and/or Defendant Fantom (including, but not limited to, changing lanes when it was not safe to do so), negligently lost control of white 2016 Freightliner tractor-trailer bearing North Carolina license plate MR2619, causing it to slide and strike other vehicles.

48. As a result, Defendant Old Dominion's white 2016 Freightliner tractor-trailer bearing North Carolina license plate MR2619 came to rest in the right travel lane of westbound I-78, negligently blocking the right travel lane.

49. On or about the above date and time, Defendants FedEx and OMG, through the negligent actions of Defendant Manvelidze (including but not limited to suddenly and without warning slowed and stopped in the left travel lane of westbound-I-78, approximately 250 feet in front of the Old Dominion tractor-trailer), thereby blocking the left travel lane.

50. On or about the above date and time, Defendant Transervice, through the negligent actions of its driver Alfred D. Kinnick (now deceased), including but not limited to driving too fast for conditions and negligently using a cell phone while driving, struck the FedEx tractor-trailer and pushed it into a "jackknife" position, creating a total blockage of all westbound travel lanes of I-78.

51. The operator of Plaintiff New Prime's tractor-trailer, taking note of windy and snowy weather conditions at the time, as well as the "jackknifed" FedEx tractor-trailer ahead, slowed the New Prime tractor-trailer and brought it to a controlled stop in the center median without striking any other vehicles or objects.

52. On or about the above date and time, Defendant Landes, through the negligent actions of Defendant Mollenkopf (including but not limited to driving too fast for conditions), veered to the left to avoid the blocked travel lanes, and struck at least one passenger vehicle and

the rear of New Prime's stopped trailer, causing damage to New Prime's trailer and its cargo.

53. On or about the above date and time, Defendant Total Transportation, through the negligent actions of Defendant Herman (including but not limited to driving too fast for conditions), veered to the left to avoid the blocked travel lanes, striking New Prime's trailer at a high rate of speed, causing the New Prime unit to roll over on its passenger side, and causing damage to New Prime's trailer, its cargo, and the roadway and surrounding environment.

54. On or about the above date and time, Defendant Old Dominion, through the negligent actions of its driver and/or Defendant Fantom (including, but not limited to, driving too fast for conditions), negligently lost control of the green 2016 Freightliner sleeper cab bearing North Carolina license plate MN6259 and hauling double Wabash trailers, causing the unit to slide to the left and jackknife, striking other vehicles and the rear of New Prime's trailer, causing damage to New Prime's trailer, its cargo, and the roadway and surrounding environment.

55. The aforesaid damages to New Prime was caused by negligent and carelessness of the Defendants, acting jointly and severally, including but not limited to the following acts or omissions:

- (a.) Failing to operate a motor vehicle under proper and adequate control;
- (b.) Suddenly slowing and/or stopping on travel lanes;
- (c.) Blocking travel lanes on the highway;
- (d.) Failing to keep a proper lookout for hazards and other vehicles on the roadway;
- (e.) Using a cell phone while driving in violation of Federal and Pennsylvania law;
- (f.) Driving too fast for conditions then existing;
- (g.) Failing to keep a proper lookout for the Plaintiff's vehicle;

- (h.) Failing to have due regard for the point and position of Plaintiff's vehicle;
- (i.) Violating the rules of the road, the ordinances of Bethel Township and Lancaster County, the Motor Vehicle Code of the Commonwealth of Pennsylvania, the Motor Carrier Safety Regulations and other Federal rules and laws governing the safe operation of motor vehicle and commercial motor vehicles;
- (j.) Failing to hire competent employees and commercial drivers who were qualified to safely operate a tractor-trailer;
- (k.) Failing to properly train and supervise employees and commercial drivers;
- (l.) Failing to establish, implement, and enforce policies and procedures for the safe operation of a tractor-trailer;
- (m.) Failing to properly inspect and/or maintain a commercial vehicle.

56. As a result of aforesaid negligence of the Defendants, Plaintiff incurred costs in the form of specialized cleanup expenses, towing and storage, plus severe damage to its trailer and the loss of cargo, totaling at least \$151,905.01, plus continuing loss of use:

\$ 59,574.92 cost to repair trailer - see Exhibit "A," Quote for Repair, attached;

\$ 26,200.00 towing/4 days storage - see Exhibit "B," V&M Towing invoice, attached;

\$ 51,908.43 cargo loss, minus salvage - see Exhibit "C," cargo documents, attached;

\$ 14,221.66 clean up costs - see Exhibit "D," PES invoice, attached

WHEREFORE, Plaintiff respectfully requests that this Honorable Court enter judgment in its favor and against Defendants, individually, jointly and severally, for \$151,905.01, together with any further loss-of-use damages, costs, attorneys' fees, and such other relief as the law permits.

Respectfully submitted,

RYAN, BROWN, McDONNELL,
BERGER & GIBBONS, P.C.

By: /s/ Cynthia M. Certo
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Attorney for Plaintiff,
NEW PRIME, INC.

CERTIFICATE OF SERVICE

I hereby certify that a copy of the foregoing AMENDED COMPLAINT has been served this 12th day of February, 2018, via Electronic Filing for all represented parties and via First Class U.S. Mail upon the remaining defendants, except as otherwise noted, as follows:

TRANSERVICE LOGISTICS, INC.
5 Dakota Drive
New Hyde Park, NY 11042

ESTATE OF ALFRED D. KINNICK
1015 Washington College Station Road
Limestone, TN 37681

FEDEX GROUND PACKAGE
SYSTEM, INC.
1000 FedEx Drive
Moon Township, PA 15108

SHOTA MANVELIDZE
12 Francis Avenue, Apt. 2B
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Lindenhurst, NY 11757
(via Certified U.S. Mail, return receipt requested)

OLD DOMINION FREIGHT LINE
500 Old Dominion Way
Thomasville, NC 27360

DANNY FANTOM
58 Jamestown Road
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